

TITLE 9. CALIFORNIA CODE OF REGULATIONS
ADOPT
CHAPTER 12. MENTAL HEALTH PROGRAM STANDARDS
FOR THE COMMUNITY TREATMENT FACILITY

Article 1 General Provisions

Section 1900 Application of Chapter

(a) This Chapter shall apply to mental health programs of a Community Treatment Facility, hereinafter referred to as a CTF, as defined in Section 1502(a)(8) of the Health and Safety Code. Pursuant to Section 4094 of the Welfare and Institutions Code, the State Department of Mental Health, hereinafter referred to as the Department, certifies the mental health program while the California Department of Social Services licenses a facility as a CTF following issuance of a certificate of compliance by the Department.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1901 Definitions and Terms

(a) Meaning of words. A word or phrase shall have its usual meaning unless the context or a definition clearly indicates a different meaning. Words and phrases used in their present tense include the future tense. Words and phrases in the singular form include the plural form. Use of the word "shall" denotes mandatory conduct, "may" denotes permissive conduct.

(b) "Advocate" means the person or persons authorized to provide advocacy services pursuant to Section 5520 et seq. of the Welfare and Institutions Code.

(c) "Applicant" means any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity that has made application for an initial CTF mental health program certification.

(d) "Certificate holder" means the adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity that has an approved mental health program documented by a certificate issued to them by the Department.

(e) "Child" means an individual under 18 years of age who is seriously emotionally disturbed as defined in Section 5600.3 of the Welfare and Institutions Code, including those individuals 18 through 21 years of age specified in Section 1924(b).

(f) "Child care staff" means a direct service employee, as defined by the Division of Community Care Licensing, of a CTF whose duties include but are not limited to the care

and supervision of the children residing in the facility.

(g) "Child's facility record" means the documents supporting the child's admission and treatment at the CTF.

(h) "Clinical psychologist" means a psychologist licensed by this State who possesses a doctorate degree in psychology from an educational institution meeting the criteria for subdivision (c) of Section 2914 of the Business and Professions Code, and who has not less than two years clinical experience in a multi-disciplinary facility licensed or operated by this or another State or by the United States to provide health care, or who is listed in the latest edition of the National Register of Health Service Providers in Psychology, as adopted by the Council for the National Register of Health Service Providers in Psychology and as provided in Section 1316.5 of the Health and Safety Code.

(i) "Conservator" means a person appointed pursuant to Section 5350 of the Welfare and Institutions Code.

(j) "Department" means the California State Department of Mental Health.

(k) "Emergency" means an unforeseen situation that calls for immediate action without time for full deliberation to prevent the physical injury of a child or others or extreme property damage which could result in such injury.

(l) "Interagency placement committee" means a committee established by the county in accordance with Section 4096(c) of the Welfare and Institutions Code with a membership that includes at least a representative from the county placing agency and a licensed mental health professional from the county department of mental health.

(m) "Least restrictive setting" means the treatment setting which affords the maximum amount of personal freedom consistent with the effective delivery of services for the child being treated that can fulfill the objectives of the child's treatment plan.

(n) "Licensed clinical social worker" means a person who is licensed as a clinical social worker by the Board of Behavioral Science Examiners.

(o) "Licensed marriage, family, and child counselor" means a marriage, family, and child counselor licensed by the State Board of Behavioral Science Examiners.

(p) "Licensed mental health professional" means any of the following:

(1) A psychiatrist;

(2) A clinical psychologist;

(3) A licensed marriage, family and child counselor;

(4) A licensed clinical social worker;

(5) A licensed registered nurse with a masters or doctorate degree in psychiatric nursing.

(q) "Licensed nursing staff" means a licensed registered nurse, a licensed vocational nurse, or a licensed psychiatric technician as defined in this chapter, and employed by a CTF to perform functions within their scope of practice.

(r) "Licensed vocational nurse" means a person licensed as a licensed vocational nurse by the California Board of Vocational Nurse and Psychiatric Technician Examiners.

(s) "Mental health program director" means the licensed mental health professional who has been designated by a CTF's certificate holder to oversee and implement the overall mental health treatment program.

(t) "Needs and Services Plan" or "NSP" is the written plan of all therapeutic, behavioral, and other interventions that are to be provided to the child, and that are necessary to achieve the desired outcomes or goals for that child.

(u) "Non-secure portion of the facility" means that part of a CTF which has entrances and exits, including windows, which are not controlled with locking mechanisms allowing egress or ingress from the premises to the children housed in this portion of the facility.

(v) "Physical restraint" means physically controlling a child's behavior. Physical control includes restricting movement by positioning staff, restricting motion by holding, the application of mechanical devices and involuntary placement of a child in a seclusion room or any other room in which they are involuntarily isolated.

(w) "Physician" means a person licensed as a physician and surgeon by the California Medical Board or by the Board of Osteopathic Examiners.

(x) "Progress notes" are written comments or descriptions of a child's participation and response to the provision of prescribed mental health treatment services.

(y) "Provider" means a "certificate holder" as defined in subsection (d).

(z) "Provision" or "provide" means whenever any regulation of this chapter specifies that any service, personnel, or other requirement be provided or that provision be made for,

the provider shall do so directly or present documentation that the requirement has been met by some other means.

(aa) "Psychiatric technician" means a person licensed as a psychiatric technician by the California Board of Vocational Nurse and Psychiatric Technician Examiners.

(bb) "Psychiatrist" means a physician and surgeon licensed by the Medical Board of California who can show evidence of having completed the required course of graduate psychiatric education as specified by the American Board of Psychiatry and Neurology in a program of training accredited by the Accreditation Council for Graduate Medical Education, the American Medical Association or the American Osteopathic Association.

(cc) "Registered nurse" means a person licensed as a registered nurse by the California Board of Registered Nursing.

(dd) "Seclusion" means the involuntary confinement of a child in a room.

(ee) "Secure portion of the facility" means that part of a CTF which has entrances and exits, including windows, which are controlled with locking mechanisms that are inaccessible to the children. Any additional outside spaces and recreational areas that are attached to the facility must similarly be enclosed to preclude egress or ingress from the premises.

NOTE: Authority Cited: Section 4094 of the Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Article 2 Mental Health Program Certification Procedures

Section 1902 Application for Mental Health Program Certification

(a) Any adult, firm, partnership, association, corporation, county, city, public agency or other governmental entity desiring program certification for a CTF shall file an application with the Department which shall include the name of the adult, firm, partnership, association, corporation or governmental entity, the location of the proposed CTF, a proposed plan of operation as defined in Section 1919(c) of this chapter, and supporting documents as defined in subsection (c).

(b) Upon the Department's request, an applicant shall provide the Department with verification of the information submitted in their application and/or supporting documentation.

(c) Supporting documents are defined to include the following: previous or current experience in the provision of residential treatment services to children; letters of support or need from county mental health directors, county social service directors, county probation directors, and/or county or district offices of education; and a description of current or proposed relationships to transitional, less restrictive placements.

NOTE: Authority Cited Section 4094 of the Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1903 Mental Health Program Certification of Separate Premises

(a) A separate program certification is required by the Department for each CTF mental health program as described in Section 1919 that is maintained on separate premises.

(b) A separate program certification is not required for separate residential units on adjoining lots provided that the certificate holder operates the mental health programs as one program using the same administrator and mental health program director.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1904 Application Review

(a) When an application is submitted pursuant to Section 1902 the Department will inform the applicant, within thirty (30) calendar days of receipt of the application, that the

application is complete and accepted for filing or that the application is deficient and what specific information or documentation is required to complete the application.

(1) The Department shall inform each applicant of the statutory statewide limits on the number of licensed CTF beds imposed by Section 4094.7 of the Welfare and Institutions Code, regional restrictions on CTFs required by state law, and the effect that these limits will have on their application.

(2) The Department shall inform each applicant how the criteria used by the Department to determine the providers of CTF services within the state affected the certification or certification denial of their proposed mental health treatment program. The criteria will measure how the proposed mental health treatment program meets:

(A) Regional service needs;

(B) Treatment program needs of the target population;

(C) Fiscal accountability and stability; and

(D) Experience in providing residential treatment services.

(b) An application shall be considered complete when all documents or information required to be submitted with an application have been received by the Department.

(c) If an applicant fails to respond within thirty (30) calendar days to the Department's request pursuant to subsection (a) for additional information or documentation, the application shall be deemed to have been withdrawn by the applicant.

(d) Any applicant deemed to have withdrawn an application pursuant to subsection (c) may re-apply by submitting a new application.

(e) The Department shall notify the applicant in writing of the Department's decision regarding the application within sixty (60) calendar days of receipt of a completed application.

(f) If the Department fails to notify an applicant within the time period specified in subsection (e), the applicant may request a review by the Director of the Department or his designee. The written request shall include:

(1) The identity of the applicant;

(2) The date upon which the application was submitted;

(3) A copy of all correspondence between the Department and the applicant regarding the application;

(4) Any other information which the applicant wishes to submit regarding the timeliness of the Department's consideration of the application.

(g) Nothing in this section shall be construed to require mental health program certification by the Department.

(h) An applicant shall have the right to withdraw an application for an initial or renewal certification. The withdrawal notification shall be in writing.

(i) All applications for mental health program certification and requests for application withdrawal shall be filed with the Department headquarters office: State of California, Department of Mental Health, 1600 9th Street, Sacramento, CA 95814.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1905 Mental Health Program Certification

(a) The Department shall issue a certificate of approval to applicants it approves to be a regional CTF provider.

(b) The Department shall notify the California Department of Social Services in writing of the certification of the program of a specific applicant.

(c) Mental health program certification shall expire one year from the date of issuance.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1906 Application for Renewal of Mental Health Program Certification

(a) The Department shall renew certification of the certificate holder's program based on the results of a yearly site visit by a Department representative or designee which verifies that all requirements of this chapter and requirements of the California Department of Social Services continue to be met.

(b) The Department shall notify the certificate holder, in writing, of the certification renewal or non renewal with an explanation of the reasons for non renewal within sixty (60) calendar days of the site visit.

(c) The Department shall notify the California Department of Social Services of the renewal certification or non renewal of certification of each CTF program.

(d) Pending the issuance of a renewal certification pursuant to subsection (a) or the notification of non renewal pursuant to subsection (b), the current certification shall remain in effect.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1907 Submission of a New Application

(a) A certificate holder shall be required to file a new application, as required in Section 1902, whenever there is a change in conditions or limitations described on the current license as issued by the California Department of Social Services, or other changes including but not limited to the following:

(1) Changes in the facility's plan of operation, as required in Section 1919 of this chapter;

(2) Changes in the limitations on the number of beds authorized for mental health program certification on a statewide basis, as established in statute;

(b) The Department shall review the application as specified in Section 1904 and notify the certificate holder within thirty (30) calendar days of changes in state statute that affect the limitations on the mental health program certification of CTF beds.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Article 3 Administrative Actions

Section 1908 Denial of Application for Mental Health Program Certification

(a) The Department shall deny an application for mental health program certification if it is determined that the applicant is not in compliance with the provisions of this chapter.

(b) If the application for initial mental health program certification is denied, the Department shall notify the applicant and the California Department of Social Services of the denial in writing. The notification shall set forth the reason for the denial and advise the applicant of the right to petition for a hearing to appeal the decision.

(c) An applicant may contest a certification denial by submitting a written request for a hearing to appeal the decision to the Department within fifteen (15) calendar days of receipt of the denial notice. Upon receipt of a written request the Department will forward a copy of the request for hearing, along with any documentation, to the California Department of Social Services.

(d) A hearing concerning denial of mental health program certification and/or licensure shall be conducted by the California Department of Social Services and held jointly with the Department.

(e) The proceedings for the hearing shall be governed by Chapter 5, commencing with Section 11500, Part 1 of Division 3 of Title 2 of the Government Code.

(f) The Department shall provide consultation and documentation to the California Department of Social Services for any administrative proceeding regarding denial of a CTF license.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1909 Revocation or Suspension of Mental Health Program Certification

(a) The Department may immediately suspend or revoke mental health program certification of a facility after a notice of noncompliance is given to the provider pursuant to Section 1915 on any of the following grounds:

(1) Violation of any provision of this chapter which places the health or safety of a child in jeopardy;

(2) Aiding, abetting, or permitting the violation of any provision of this chapter;

(3) Conduct by the certificate holder or any employee, or contractor to the certificate holder which represents an immediate or substantial threat to the physical health, mental health, or safety of any child in the facility.

(b) Upon completion of a site review and determination that grounds for revocation or suspension pursuant to subsection (a) have been met, the Department shall notify the certificate holder and the California Department of Social Services via facsimile transmission or mail within two (2) working days and proceedings shall be conducted in accordance with Chapter 5, commencing with Section 11500, Part 1 of Division 3 of Title 2 of the Government Code.

(c) A hearing concerning revocation or suspension of either mental health program certification, or California Department of Social Services licensure, or both shall be conducted by the California Department of Social Services and shall be held jointly with the Department.

(d) The Department shall provide consultation and documentation to the California Department of Social Services for any administrative proceeding regarding revocation or suspension of a CTF license.

(e) When notified of revocation of CTF licensure by the California Department of Social Services, the Department shall revoke the corresponding CTF mental health program certification.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Article 4 Oversight and Enforcement Provisions

Section 1910 Department Oversight

(a) A CTF shall participate fully in the ongoing oversight of a certified mental health treatment program by allowing announced and unannounced site visits by Department representatives and by submitting required reports as described in Section 1912 for monitoring by the Department.

(b) A CTF shall fully cooperate in the following:

(1) Periodic reviews of program and fiscal operations of a CTF by a Department representative to verify that all mental health treatment services are provided in compliance with this chapter;

(2) Immediate on-site investigations by a Department representative, as specified in Section 1914 of this chapter, of a CTF mental health treatment services program whenever there is a threat to the health or safety of the children placed in a CTF;

(3) Monitoring activities by a Department representative for compliance with all applicable patient's rights regulations and admission and discharge due process requirements and procedures as described in Sections 1923 through 1938 of this chapter.

(c) When Department activities described in subsection (b) result in the determination that a CTF is out of compliance with the regulations contained in this chapter, the Department shall provide the certificate holder with a written notice of noncompliance as defined in Section 1915. The notice of noncompliance will be left with a CTF mental health program director upon completion of a site review, or will be sent to a CTF certificate holder via facsimile transmission or mail within two (2) working days.

(d) The Department shall have authority to interview children residing in the facility or staff and to inspect and audit individual child facility records or program records immediately upon requesting to do so at either a regularly scheduled site visit or at an unscheduled complaint investigation.

(e) The certificate holder shall make provisions for the private interviews with any child or staff at a CTF, and for the examination of all records relating to the operation of the facility's mental health program.

(f) The Department shall have the authority to observe the physical condition of any child, including conditions which could indicate abuse, neglect or inappropriate placement, and to have any child physically examined by a licensed mental health professional or physician operating within their scope of practice.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1911 Inspection by Department

(a) Any duly authorized representative of the Department shall, upon presentation of proper identification, be allowed to enter and inspect any location of a CTF or premise designated by an applicant as a proposed CTF at any time, with or without advance notice to the certificate holder or applicant, to ensure compliance with, or to prevent a violation of, any provisions of this chapter. The Department shall have the authority to make any number of visits to a CTF mental health program site in order to determine compliance with this chapter.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1912 Required Reporting

(a) A certificate holder shall report to the Department the following information every six (6) months:

- (1) Occupancy rate of the facility;*
- (2) Average length of stay, specifying the average number of days spent in secure settings and days spent in non-secure settings;*
- (3) Numbers of admissions of CTF residents to acute inpatient psychiatric settings;*
- (4) Listing of counties utilizing the facility and numbers of placements per county;*
- (5) Demographic information of admitted children, including age, gender, ethnicity and placing agency or authority;*
- (6) Number of requested pre-admission hearings conducted pursuant to In re Roger S. [19 Cal. 3d 921(1977)], hereinafter referred to as "Roger S.," administrative hearings, waivers of the right to such a hearing, and requests for writs of habeas corpus per the following categories of children placed within the facility: court ward; court dependent; educationally placed; and private pay.*
- (7) Other information requested by the Department to resolve any fiscal or programmatic issues raised by the information reported pursuant to this subsection.*

(b) A certificate holder shall report special incidents related to a child to his appointed licensing agent of the California Department of Social Services according to Title 22, Section 84161 of the California Code of Regulations and to the Department.

(c) A certificate holder shall report to the Department changes of the facility's mental health program director within ten (10) calendar days of the date of hire.

(d) A certificate holder shall provide a summary of denials of personal rights to both the Department and the county patients' rights office on a quarterly basis.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1913 Complaints

(a) Any person may submit a complaint to the Department concerning the operation of a CTF mental health program in accordance with the provisions of this chapter.

(b) The California Department of Social Services shall report to the Department when there is reasonable cause to believe that a CTF is not in compliance with the program standards established in this chapter.

(c) The complaint may be made to the Department either orally or in writing at 1600 9th Street, Sacramento, CA 95814, specifying enough details of the alleged violation to enable the Department to determine the date of the alleged violation, who was involved, and what the alleged violation was.

(d) The substance of the complaint shall be communicated to the certificate holder no earlier than at the time of the on-site investigation if silence regarding the complaint issue is necessary for purposes of conducting an unannounced investigation.

(e) Unless the complainant specifically requests otherwise, neither the substance of the complaint provided the certificate holder nor any copy of the complaint or any record published, released or otherwise made available to the certificate holder shall disclose the name of any person mentioned in the complaint except the name of any duly authorized representative of the Department or the California Department of Social Services, conducting the investigation or inspection pursuant to this chapter.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1914 Investigation Authority

(a) Upon receipt of a complaint regarding an alleged violation of any provision of this chapter, the Department representative may do one or more of the following:

(1) Make a preliminary review and determine that there is or is not a reasonable basis for the complaint.

(A) If there is reasonable basis for the complaint, Department staff may schedule an on-site investigation within ten (10) calendar days after receiving the complaint.

(B) If there is reasonable basis for the complaint, Department staff may contact the certificate holder directly to further discuss the complaint and to determine if corrective actions are necessary.

(b) In either event cited in subsections (a)(1)(A) and (a)(1)(B), the complainant shall be promptly informed of the Department's proposed course of action.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1915 Notice of Noncompliance

(a) Prior to completion of an inspection, investigation or record review, the certificate holder or his designee, and the Department representative shall meet to discuss any noncompliance, jointly develop a plan for correcting each noncompliance, and acknowledge receipt of the notice of noncompliance which shall include:

(1) A citation of the statute or the regulation which has been violated;

(2) A description of the nature of the noncompliance, stating the manner in which the certificate holder failed to comply with a specified statute or regulation;

(3) A plan developed for correcting each noncompliance;

(4) A date by which each noncompliance shall be corrected.

(b) When a Department representative conducts an inspection, investigation or record review, and determines that a CTF is in noncompliance with provisions of this chapter, the Department shall issue a notice of noncompliance, except in the following situations:

(1) When the noncompliance is not an immediate or substantial threat to the physical health, mental health, or safety of the child in the program and is corrected during the visit;

(2) When the noncompliance is corrected immediately through the provision of requested documents or information via fax transmission.

(c) A Department representative shall provide a written notice of noncompliance and plan of correction to the certificate holder by one of the following:

(1) Personal delivery to the administrator of the facility at the completion of the visit;

(2) Leaving the written notice with the person in charge of the mental health program at the completion of the visit when the administrator is not at a CTF site. A copy of the written notice shall also be mailed to the certificate holder.

(d) When the investigation or record review is conducted at Department offices, the notice of noncompliance and plan of correction shall be faxed, when possible, to the certificate holder and mailed within one (1) working day following the completion of the investigation.

(e) The date for correcting a deficiency shall not be more than thirty (30) calendar days following service of the notice of noncompliance, unless a Department representative determines that the deficiency cannot be completely corrected in thirty (30) calendar days.

(f) When the date for correcting the deficiency is more than thirty (30) calendar days following the service of the notice of noncompliance, the notice shall specify the corrective actions which must be taken within thirty (30) calendar days to begin correction, as well as a time frame for completion of the correction.

(g) A Department representative shall require correction of the deficiency within twenty-four (24) hours or less if there is an immediate threat to the physical or mental health or safety of the children.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1916 Determining Compliance

(a) A follow-up visit may be conducted by the Department representative to determine compliance with the plan of correction specified in the notice of noncompliance.

(b) If a follow-up visit indicates that a deficiency was not corrected on or before the date specified in the notice of noncompliance, the Department shall initiate proceedings for the revocation or suspension of the mental health program certification.

(c) Notwithstanding Section 1916 (b), a Department representative shall have the authority to extend the date specified for corrections of a deficiency if warranted by the facts or circumstances presented in support of a request for extension.

(d) The certificate holder may request an extension in writing which the Department must receive at least seven (7) calendar days prior to the date specified in the notice of noncompliance for completion of the plan of correction.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1917 Administrative Review

(a) A certificate holder may request an administrative review of a notice of noncompliance within ten (10) working days of receipt of such notice.

(1) The written request for an administrative review of a notice of noncompliance submitted by a certificate holder to the Department does not change the time limits for correcting the deficiency cited in the notice of noncompliance.

(b) The review shall be conducted by a Department reviewer who is a designee of the Department at a staff level senior to that of the Department representative who issued the notice.

(c) If the Department reviewer determines that a notice of noncompliance has not been issued in accordance with the provisions of this chapter, he shall have the authority to amend or dismiss the notice.

(d) The Department reviewer shall have the authority to extend the date specified for correction of a deficiency if warranted by the facts or circumstances presented in support of the request for extension or by the request for administrative review.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Article 5 Continuing Requirements

Section 1918 Facility Requirements

(a) The certificate holder shall comply with all regulations established by the California Department of Social Services pertaining to a licensed CTF.

(b) A CTF mental health program shall have the capacity to provide secure containment.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1919 Plan of Operation

(a) An applicant shall submit a written plan of operation, as defined in Section 1919(c) of this article, as part of the application process for initial review and approval by the Department.

(b) Any changes to a plan of operation, as described in subsection (c) shall be mailed or faxed to the Department within ten (10) calendar days of the change.

(c) The plan of operation of a CTF, for the purposes of this chapter, shall include the following:

(1) The philosophy and goals of the facility's mental health services program including the proposed average length of stay and criteria under which a briefer or longer stay would be authorized;

(2) A description of the facility's proposed target population by range of age, gender, ethnicity, culture or special needs;

(3) A description of the array of mental health treatment services that can be made available to a child during his placement within a CTF;

(4) Written documentation demonstrating the proposed or existing facility's capability to provide those mental health services required by a child placed within the facility, to include:

(A) Job descriptions and staffing patterns for the mental health program director, services team staff, and licensed mental health professionals who will be working directly

with children in a CTF with appropriate documentation of the staff's cultural competence as described in Section 5600.2(g) of the Welfare and Institutions Code;

(B) The name of the proposed mental health program director, with his professional license number, who shall be qualified in accordance with these regulations;

(C) An organizational chart which lists functions and licenses, if applicable, of the administrative and licensed mental health professional staff and contracted licensed mental health professionals providing the interventions and services described in the provider's overall program plan;

(D) A detailed staff development plan, describing staff orientation procedures, on-the-job training requirements and proposed continuing education activities;

(5) Written policies and procedures for providing access to community resources to be utilized in the delivery of prescribed services, including medical and crisis intervention, inpatient psychiatric hospitalization and educational placements and classes as necessary;

(6) Written policies, procedures and criteria for:

(A) Recording daily observations and interactions with each child by CTF staff;

(B) Admission;

(C) Discharge;

(D) Psychotropic medication control;

(E) The inclusion of the child and his parent or conservator in the development and implementation of an individualized needs and services plan, hereinafter referred to as NSP;

(F) The monthly review of each child's NSP;

(G) Physical restraint and seclusion;

(H) Staff training to ensure due process rights of children while in the CTF;

(I) Visitation and phone use;

(J) Confidentiality pursuant to Section 5328.15 of the Welfare and Institutions Code;

(K) Transitioning a child from a non-secure portion of the facility to a secure one and vice versa.

(L) Proposed documents to be used to inform children and their parents or conservators of the above requirements;

(7) A quality assurance program designed to enhance services and care through an objective assessment of the facility's overall program to ensure the correction of identified problems;

(A) The quality assurance program shall include procedures for ensuring the accountability of the facility's licensed mental health professionals and child care staff for the services and care provided to children residing in the facility and for the implementation of any necessary changes.

(8) A utilization review plan and program to monitor the appropriateness of a child's admission and continued stay or discharge to establish the basis for identifying and assessing the utilization of mental health program services and the continued need for placement;

(A) The utilization review plan shall include a description of the procedures to be used by the facility staff to determine the placement or transfer of a child into either the secure or non-secure portion of the facility.

(B) These procedures shall include documentation of approval of the proposed change of a child's placement within the facility by a licensed mental health professional.

(9) A listing and copies of all agreements, contracts or memorandums of understanding with participating private or public mental health providers;

(10) Detailed plans of the buildings and grounds, including the number of beds in the secure and non-secure portions of the facility, security features and procedures, proposed offices, staff areas, visitor areas, physical restraint and seclusion rooms, educational sites and outdoor recreational areas;

(11) A proposed budget for the facility, including demonstration of sufficient funds or resources to ensure adequate start up activities and treatment services.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq., 5600.2(g) of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1920 Mental Health Program Director Requirements and Responsibilities

(a) A CTF shall have a mental health program director who shall be a licensed mental health professional as defined in this chapter. The mental health program director shall have at least three years of post graduate direct clinical experience with seriously emotionally disturbed children, at least one year of which shall be in the position of supervising direct care staff.

(b) The mental health program director shall be responsible for the following:

(1) Ensuring the provision of appropriate mental health services to the children in the facility;

(2) Ensuring timely completion of all activities, documentation and reports as required by Section 1927(a-j) of this chapter;

(3) Assessing the facility's mental health services on a quarterly basis and providing a signed and dated report summary to the CTF certificate holder with any recommendations that address identified problems;

(4) Supervising, or ensuring supervision by a qualified individual, of licensed mental health professionals and child care staff regarding specific roles and responsibilities in delivering and monitoring mental health services for each child in a CTF;

(5) Reviewing all incidents of physical restraint and seclusion within the facility, including all necessary staff debriefings, staff meetings, individual supervision of staff, recommended changes in facility staffing patterns, recommended additional training, and each child's NSP, for the purpose of reducing physical restraint and seclusion.

(c) If the mental health program director is not a board eligible psychiatrist, the provider must employ or contract with a board eligible psychiatrist to assume medical responsibility for mental health services.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1921 Licensed Mental Health Treatment Staffing

(a) A certificate holder shall employ sufficient numbers of licensed mental health professionals and licensed nursing staff.

(b) All mental health professionals providing services in a CTF shall meet all professional licensing and certification requirements.

(c) All program nursing services shall be provided by licensed nursing staff. Program nursing services shall include but not be limited to physical assessment, dispensing psychotropic medication, providing discipline, and monitoring seclusion and restraint.

(d) All program nursing services shall be provided under the direction of a registered nurse who shall meet at least the following qualifications:

(1) A master's degree in psychiatric nursing or related field with experience in administration; or

(2) Two years of experience in psychiatric nursing; or

(3) Two years of experience in nursing administration or supervision and one year of experience in psychiatric nursing.

(e) Each CTF shall have qualified nursing staff in the facility on a twenty-four (24) hour basis.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1922 Required Staff Training

(a) All staff persons working directly with children shall receive training in the following areas:

(1) Children's due process and patient's rights as defined in federal and state statutes, regulations and case law and appropriate management of requests from a child regarding his due process or patient's rights;

(2) Monitoring and documenting responses to psychotropic medications and recognizing possible side effects in children and adolescents;

(3) A staff member shall have participated in at least sixteen (16) hours of basic training in the areas of preventing and managing assaultive and self-injurious behaviors prior to participating in the physical restraint or seclusion of a child.

(b) Staff participating in the physical restraint or seclusion of a child shall also participate in a required four (4) hours of bi-annual review of the above referenced subjects.

All behavior management training courses shall be pre-approved by the Department to ensure the proposed courses' relevance to the safe seclusion and restraint of children.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1923 Admission Criteria

(a) A CTF may only admit a child when the applicable conditions in subsections (b), (c) and (d) have occurred and are documented.

(b) A child, court, conservator or parents must submit one of the following types of admission applications and consent for treatment to a CTF:

(1) An application by a child of any age who is under the jurisdiction of the juvenile court and the court's consent to treatment shall be documented by a copy of the juvenile court ruling making the findings specified in Section 6552 of the Welfare and Institutions Code which must be included in the child's application for admission;

(2) An application made by the conservator for a child of any age, appointed in accordance with Section 5350 of the Welfare and Institutions Code shall be documented by the court documents appointing the conservator and specifying the conservator's authorization to place the child in a CTF, as well as any other powers that may be relevant in this setting, along with the conservator's written consent for treatment;

(3) An application made by the parents of a child under the age of fourteen and a consent to treatment signed by both parents unless the admitting parent submits a court order demonstrating that he has sole custody and control of the child.

(4) An application made by the parents of a child fourteen (14) through seventeen (17) years old, a consent to treatment signed by both parents unless the admitting parent submits a court order demonstrating that he has sole custody and control of the child and one of the following:

(A) A statement signed by the child and the child's attorney or patients' rights advocate that the child has made a knowing and voluntary waiver of his right to a pre-admission hearing after being advised by the attorney or notified by the advocate of his rights to a pre-admission "Roger S." hearing. If the child waives his right to a pre-admission hearing based on the notification of rights by the advocate, the child's statement must also indicate that he has been notified of his right to receive the advice of an attorney and has made a knowing and voluntary waiver of that right as well; or

(B) The findings and order from a preadmission hearing held pursuant to Section 4094(g) of the Welfare and Institutions Code in accordance with the criteria delineated in "Roger S." and findings have been made that the child suffers from a mental disorder; that there is a substantial probability that treatment will significantly improve the child's mental disorder; that the proposed placement is the least restrictive setting necessary to achieve the purposes of treatment; and that there is no suitable alternative to CTF placement. A hearing held in accordance with this provision shall include but not be limited to the following:

1. A neutral and detached fact finder and decision maker who shall have no personal, administrative or financial ties to any parties represented at the hearing nor to the proposed placement facility;

2. Adequate written notice to the child before the hearing stating the basis for the proposed admission to a CTF;

3. An informal setting to minimize the anxiety of both parents and children and to promote cooperation and communication between all parties. All parties shall speak in terms the child understands and shall explain any terminology with which he is unfamiliar;

4. The stipulation that formal rules of evidence are not applicable and that the standard for decision shall be by a preponderance of the evidence;

5. The requirement that the hearing shall be closed to anyone other than the child, his parents or parent; the child's attorney, the person conducting the hearing, the professional person presenting evidence in favor of the commitment, and other persons requested to be in attendance by the child, or by the child's attorney;

6. Assistance provided by an attorney to the child who shall be allowed to call witnesses, examine evidence, present evidence on his own behalf and question persons presenting evidence in support of the admission; and

7. Maintenance of a record of the proceedings adequate to permit meaningful judicial or appellate review which shall be confidential in accordance with Section 5328 of the Welfare and Institutions Code.

(c) A written statement has been signed by an appropriate licensed mental health professional certifying that the child requires periods of containment to participate in and benefit from mental health treatment, the proposed treatment program is reasonably expected to improve the child's the mental disorder, the child is seriously emotionally disturbed as defined in Section 5600.3(a)(2) of the Welfare and Institutions Code and also meets one or more of the following requirements:

(1) Less restrictive interventions including, but not limited to outpatient therapy, family counseling, case management, family preservation efforts, special education classes, or nonpublic schooling have been attempted and proved insufficient.

(2) He is an inpatient in a psychiatric hospital, psychiatric health facility or residential treatment facility and is receiving services on either a voluntary or involuntary basis.

(d) A signed written statement from the placing county's or the parent's county of residence interagency placement committee must certify that:

(1) The child is in need of the level of care provided by a CTF to implement the proposed treatment program and meets the requirements of subsection (c);

(2) Informed consent for treatment has been given by a child's parents or the parent having sole legal custody and control of the child or the conservator.

(3) A pre-admission hearing officer has made the findings and order specified in Section 1923(b)(4)(B), when the child is 14 to 17 years old, under parental custody, and has not waived their right to a "Roger S" hearing.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1924 Continuing Stay Criteria

(a) Continuing stay criteria used by a CTF shall include documentation by the CTF psychiatrist of the continuation of admission criteria in addition to written documentation from the appropriate interagency placement committee, or other designated external case manager, such as the probation department, county mental health department, or private insurance utilization review personnel, supporting the decision for continued placement of the child within a CTF. Continuing stay criteria shall be reviewed by a CTF in intervals not to exceed ninety (90) days. Findings shall be entered into each child's facility record.

(b) Individuals who are special education pupils identified in paragraph (4) of subdivision (c) of Section 56026 of the Education Code and who are placed in a CTF prior to age eighteen (18) pursuant to Chapter 26.5 of the Government Code may continue to receive services through age 21 provided the following conditions are met:

(1) They continue to satisfy the requirements of subsection (a);

(2) They have not graduated from high school;

(3) *They sign a consent for treatment and a release of information for CTF staff to communicate with education and county mental health professionals after staff have informed them of their rights as an adult.*

(4) *A CTF obtains an exception from the California Department of Social Services to allow for the continued treatment of the young adult in a CTF pursuant to Section 80024, Title 22, Division 6, Chapter 1 of the California Code of Regulations.*

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1925 Discharge and Release Procedures

(a) *When it is deemed clinically appropriate a child shall be discharged from a CTF after completing normal discharge procedures.*

(b) *When it is not deemed clinically appropriate for a child to be discharged from a CTF a child shall be released under the following circumstances:*

(1) *A child admitted to the facility pursuant to Subsection (b)(1) of Section 1923 is deemed to be a voluntary patient and may revoke the voluntary status by giving notice of his desire to leave the facility to any member of the CTF staff. The child may make this notification directly or through an attorney or advocate. When staff is notified of a child's desire to revoke his voluntary consent to treatment, the court shall be notified no later than within one working day by a CTF staff person pursuant to Section 6552 of the Welfare and Institutions Code, and arrangements shall be made to return the child to the court. If the child leaves the care and custody of a CTF without permission prior to being discharged by a CTF, the juvenile court shall be notified immediately;*

(2) *A child admitted to a CTF pursuant to Subsection (b)(2) of Section 1923 is deemed to be a voluntary patient and the child's conservator, appointed in accordance with Section 5350 of the Welfare and Institutions Code, may revoke the voluntary status by giving notice to the facility;*

(3) *A child admitted to a CTF pursuant to Subsection (b)(3) or (b)(4) of Section 1923 and the child's parents, or the parent entitled to sole custody of the minor may remove the child from a CTF after completing normal CTF discharge procedures.*

(4) *A special education pupil over the age of eighteen who is continuing to receive treatment pursuant to Section 1924(b) need only withdraw consent for treatment to be discharged if he is not a ward of the court or under the care and custody of a conservator.*

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1926 Habeas Corpus Hearings

(a) Pursuant to Section 4094.6 of the Welfare and Institutions Code, every child placed in a CTF has a right to a hearing by writ of habeas corpus, including court appointed counsel, within two (2) days of filing a petition with the superior court of the county in which the facility is located. The child may make this request directly or through an attorney or advocate.

(b) Any member of a CTF staff to whom a request for release is made shall promptly do the following:

(1) Provide the child making the request with a form for a request for release or mark a copy of the form for the child. The form shall be substantially as follows:

*(Name of the Facility)_____ day of
_____ 19__*

I, _____ (member of the CTF staff) have today received a request for the release of _____ (name of child) from the undersigned child on his or her own behalf or from the undersigned person on behalf of the child.

Signature or mark of child making request for release.

Signature or mark of person making request for release on behalf of patient.

Signature or mark of staff person receiving request for release

(2) Deliver the completed request form to the CTF administrator and note the request in the child's facility record;

(3) As soon as possible, but not longer than the next working day, a member of the facility staff shall submit the request for release form to the superior court of the county in which the facility is located;

(4) As soon as possible, but not longer than twenty-four (24) hours from the request for release, the member of the facility staff shall inform the individual who admitted the child of the request for release;

(5) A copy of the child's request for release, along with notification documents to the superior court shall be maintained in the child's facility record;

(6) The CTF administrator shall ensure that the child is informed as soon as possible of the date, time and location of the hearing.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1927 Mental Health Program Components and Documentation Requirements

(a) The certificate holder of a CTF shall ensure that the required child facility records are kept on each child residing within the facility. Required child facility records include:

(1) A signed and dated copy of the interagency placement committee's placement authorization letter from the child's county of residence;

(2) Documentation of the child's, and his parents' or conservator's voluntary consent to treatment, when applicable;

(3) The intake report;

(4) The admission assessment.;

(5) A psychiatric evaluation;

(6) A needs and services plan;

(7) Daily progress notes;

(8) Monthly clinical review reports;

(9) Written informed consent by the child for prescribed psychotropic medication, and, when applicable, by the parents, conservator or judge pursuant to Section 851 of Chapter 4;

(10) A copy of the court order for conservatorship if the child is conserved;

(11) A copy of the administrative hearing ruling if the child contested placement and a pre-admission administrative hearing was held or a copy of the form waiving this right signed by the child;

(12) A discharge summary;

(13) A discharge report.

(14) A Welfare and Institutions Code, Section 6552 order if the child is a ward or dependent of the court.

(b) The intake report shall be a typed document completed prior to admission which shall be signed by a member of the facility's licensed mental health professional staff and placed into the child's facility record upon intake that includes:

(1) Demographic information as defined in Section 84168.2(c)(1) of Title 22, California Code of Regulations;

(2) Presenting problems;

(3) Current DSM diagnosis;

(4) An assessment of danger to self and others;

(5) Medications;

(6) Immediate educational, service and treatment needs;

(c) The admission assessment shall be a typed document which shall be completed and signed by a member of the facility's licensed mental health professional staff within five (5) calendar days of admission. A typed copy of the admission assessment shall be provided to the child's parents, conservator, or the person designated by the court to manage the placement within ten (10) working days of assessment completion and it shall be included in the child's facility record. The admission assessment shall contain a prognosis and estimated length of stay based upon and including:

(1) The reasons for referral;

(2) A statement of presenting problems;

(3) Precipitating events;

(4) Factors relating to presenting problems;

(5) Psychiatric history including onset of symptoms and progressions;

(6) Medical history;

(7) Psychological history including a review and summary of existing psychological evaluation material;

(8) Academic and school history;

(9) Social history;

(10) Family history;

(11) Work history if applicable;

(12) Developmental status;

(13) DSM Diagnosis;

(14) A summary of the child's strengths and weaknesses as related to his family, school and social relationships.

(d) A psychiatric evaluation shall be completed by a psychiatrist within five (5) calendar days of admission but may be performed up to sixty (60) calendar days prior to admission unless CTF mental health professionals admitting the child feel it is no longer accurate. It shall be part of the admission assessment and shall include:

(1) A mental status examination;

(2) Indications and contraindications for medications; and

(3) Therapeutic response to medications, including an assessment of side effects, if available, and the child's compliance with medications when appropriate.

(e) Each child residing within a CTF shall have an NSP completed by a licensed mental health professional within fifteen (15) calendar days of admission which shall include:

(1) Identified specific behavioral goals and specific actions to be undertaken by facility staff to assist the child in accomplishing these goals within a defined period of time through appropriate behavioral interventions and treatment modalities which shall include but not be limited to a determination of the expected duration of each use of secure containment;

(2) Discharge goals that are general indicators of the child's readiness for transition to alternative treatment settings;

(3) Participation of the child, and, when appropriate, parent, conservator or person identified by the court to manage the child's placement in the development or modification of the NSP;

(4) A review at least every thirty (30) calendar days;

(5) Appropriate clinical oversight for a child involved with the maintenance of his residential unit. This participation shall be for the purpose of skill development in cooperative living to the extent the activities are age appropriate, and within the functioning level and physical capacity of the child. Clinically indicated restrictions to protect the safety and welfare of the child and the other children and facility staff shall be documented in the child's NSP.

(A) A child shall not be used as a substitute for employed staff and shall be supervised by treatment team staff while participating in any of the above cited activities contained within his NSP.

(f) When scheduled reviews of a child's participation within the facility's program activities indicate that the child requires transition to or from a secure portion of the facility for continued treatment at the facility, the mental health program director, or a designee, shall provide the child, and, when appropriate, parent, conservator, or the person identified by the court to manage the placement, with prior notification. This notification shall include an estimated treatment duration within the new portion of the facility. The method of notification, time, date, person doing the notification and the person notified shall be entered in the child's facility record.

(1) When a child is transferred from a non-secure portion to a secure portion of the facility based upon immediate need, the notification of the parent, conservator, or person identified by the court to manage the placement shall occur as soon as possible, but not more than twenty-four (24) hours after the transfer and shall include an estimated treatment duration within the secure portion of the facility.

(g) Progress notes shall be written daily to document a child's participation and responses to the prescribed mental health treatment services and additionally whenever a significant event occurs which affects or potentially affects the child's condition or course of treatment. The progress notes shall be maintained in the child's facility record. A licensed mental health professional shall review these progress notes on a regular basis, but not less than every thirty (30) calendar days, documented by a date and the initials of the reviewer.

(h) The monthly clinical review report is a typed document substantiating a child's status and progress in treatment, signed and dated by a licensed mental health professional, to be completed every thirty (30) days based on the date of the admission assessment. It shall include:

(1) The justification for decisions concerning admission or a continued stay for a child;

(2) The types and intensity of services provided to the child and family including the use of restraint and secure containment;

(3) The impact of these same services upon treatment goals, changes in or continuation of the treatment plan objectives;

(4) The facility's discharge planning activities and a summary of the progress of a child toward his discharge goals.

(i) A typed discharge summary for a child shall be completed and signed by a member of the facility's licensed mental health professional staff and provided to the child's parent, conservator, or the person identified by the court to manage the placement on the date of discharge which shall include:

(1) Demographic information as defined in Section 84168.2(c)(1) of Title 22, California Code of Regulations;

(2) Date of admission;

(3) DSM diagnosis;

(4) Current emotional and/or behavioral problems;

(5) Continuing therapeutic and educational needs;

(6) Medications;

(7) Reason for discharge.

(j) A typed discharge report shall be completed and signed by a member of the facility's licensed mental health professional staff within fourteen (14) calendar days of the date of discharge for each child, and a copy provided to the parent, conservator or the person identified by the court to manage the placement. It shall include:

(1) The reason for admission;

(2) The reason for discharge, referencing the child's discharge planning goals, or the reason for removal;

(3) The course of treatment, including medications and the child's response;

(4) The child's discharge diagnosis according to the current edition of the DSM;

(5) Medical and dental services received while in the CTF;

(6) The child's prognosis and recommendations for further mental health treatment, educational programs or placement;

(7) A signed written approval of discharge or removal from the child's parent, conservator, or the person identified by the court to manage the placement, and the name, address and relationship to the child of the person to whom the child was released. If the written approval cannot be secured, the child's record shall include an explanation of why the written approval was not obtained.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1928 Psychotropic Medication Control and Monitoring

(a) A CTF shall have written protocols for psychotropic medication control and monitoring that require:

(1) Examination of each child by the prescribing physician, prior to prescribing any psychotropic medication which shall include screening for medical complications which may contribute to the child's mental disorder;

(2) A written medication review by the treating physician at least every thirty (30) days as clinically appropriate, based upon actual observations of the child and a review of a child's progress notes recorded by treatment team staff. This review shall be included in the child's facility record and shall include:

(A) Observations concerning the presence or absence of any side effects;

(B) Response to each psychotropic medication currently prescribed;

(C) Compliance with the medication plan;

(D) Justification for continued medication use and/or any changes in the medication plan.

(3) Appropriate documentation of informed consent from the child, and, when applicable, the parent, conservator, or judge pursuant to Title 9, Division 1, Chapter 4, Article 5.5, Section 851 of the California Code of Regulations;

(A) Psychotropic medications for a child placed in a CTF shall only be prescribed by the attending physician with the written informed consent of the child, and, when applicable, the parents, conservator or judge pursuant to Title 9, Division 1, Chapter 4, Article 5.5, Section 851 of the California Code of Regulations.

(B) No provisions included within the facility's written protocols shall allow for prior blanket consent for psychotropic medications to be prescribed for, administered to, or passed to a child.

(4) Procedures for monitoring psychotropic medications by a person licensed to prescribe or dispense prescription drugs, with the current name and qualifications of the person who shall conduct the monitoring.

(b) Any psychotropic medication control and/or monitoring practices employed by a designated CTF licensed mental health professional shall ensure that any use of prescribed psychotropic medications are consistent with the goals and objectives of a child's NSP.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1929 Restraint and Seclusion

(a) Physical restraint and seclusion shall be used only when alternative methods are not sufficient to protect the child or others from immediate injury.

(b) Physical restraint and seclusion shall not be used as aversive treatment, punishment, as a substitute for more effective programming, or for the convenience of the staff.

(c) Physical restraint and seclusion shall only be used with a written order designed to lead to a less restrictive way of managing, and ultimately eliminating, the behavior for which the physical restraint or seclusion is applied.

(d) A CTF shall adhere to written policies and procedures concerning the use of physical restraints and seclusion that include:

(1) A medical evaluation of each child upon admission to the facility to determine the existence of any condition that would contraindicate the use of physical restraint or seclusion;

(2) A requirement that they be used only with a signed order of a physician or licensed psychologist, except in an emergency as defined in Section 1901(K). In such an emergency a child may be placed in physical restraint at the discretion of a registered nurse. An order shall be received by telephone within sixty (60) minutes of the application of physical restraint, and shall be signed by the prescriber within twenty-four (24) hours. Telephone orders shall be received only by authorized mental health professional staff, and shall be recorded immediately in the child's facility record;

(A) The order shall include reasons for the physical restraint or seclusion in specific behavioral terms, type and number of points, if applicable, conditions for release or termination of physical restraint, with specific directions for discussing with the child the conditions that required the application of the physical restraint, the level of nursing care the child is entitled to while in physical restraint and the types of behaviors that will meet the criteria for terminating the order for physical restraint.

(B) Full documentation of the episode leading to the use of physical restraint, including the antecedent behaviors, and less restrictive means attempted by staff prior to the use of physical restraint, the type of physical restraint used, the length of effectiveness of the physical restraint time and the name of the individual applying such measures shall be entered in the child's facility record.

(C) At the time physical restraint or seclusion is initiated, or as soon as practical, but in every case within one (1) hour, information regarding the child's medical condition including vital signs, medications, current medical treatments and any relevant medical circumstances specific to the child shall be reviewed by the facility's on duty licensed nursing staff and noted in the child's facility record.

(D) All orders for physical restraint shall become invalid two (2) hours after the restraint or seclusion is initiated for children ages 9 to 17, one (1) hour for children under age 9, and four (4) hours for any special education pupils ages 18 through 21 remaining in the facility under continuing stay provisions. If continued physical restraint or seclusion is needed a new order shall be required.

(3) A prohibition that physical restraint shall not be allowed for longer than twenty-four (24) hours;

(4) A prohibition against as-needed, also known as "PRN" orders for physical restraint or seclusion.

(5) A description of acceptable forms of physical restraint or seclusion which shall be:

(A) Seclusion in either a designated seclusion room with a door which may be held shut to prevent a child's egress by a staff member or by a mechanism which releases upon removal of a staff person's foot and/or hand or in any other room or part of the facility where the child is prevented from physically leaving for any period of time, thus limiting their movement, activities and contact with the other children;

(B) Physical containment of a child by two or more trained staff persons utilizing methods approved by the Department;

(C) The application of mechanical devices such as well padded belts and cuffs, mittens without thumbs which are securely fastened about the wrist with a small tie and vests consisting of sleeveless cloth webbing;

(6) A requirement that restraint shall be applied in such a way as not to cause physical injury and to insure the least possible discomfort to the child;

(7) A requirement that restraints using mechanical devices shall be applied in such a manner that the device can be speedily removed in case of fire or other emergencies;

(8) A requirement that staff shall make provisions for regularly scheduled periods, at intervals not to exceed two (2) hours, for range of motion exercises, toileting and access to liquids and meals;

(9) A requirement that staff shall make provisions for responding promptly and appropriately to a child's request for services and assistance, and for repositioning the child when appropriate;

(10) A requirement for staff to take all precautions to insure the safety of children in restraints by insuring that they remain in staffs' line of vision, by isolating them from other children and by insuring that the restraints can be easily removed in case of fire or emergency;

(11) A requirement that staff shall make provisions to insure that a child placed in physical restraint shall be checked at a minimum of every fifteen (15) minutes by the licensed nursing staff to insure that the restraint remains properly applied and that the child has not harmed himself. A written record of each check shall be placed in the child's record and shall include:

(A) Vital signs which shall be measured at least every half hour, unless otherwise indicated by the prescribing professional;

(B) Justification for continued physical restraint;

(C) The child's responses to information regarding his behavioral criteria for termination of the physical restraint.

(e) A child's parent, conservator or the person identified by the court to manage the placement shall be informed of a restraint or seclusion within twenty four (24) hours, excepting weekends.

(f) Under no circumstances shall physical restraint be used as a disciplinary action.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1930 Discipline Practices

(a) The applicant or certificate holder shall develop, maintain and implement written discipline practice policies that are consistent with the NSP of the child and ensure that all staff follow these procedures when disciplining a child including the following:

(1) A directive that under no circumstance shall physical restraint be used as a disciplinary action;

(2) Reviews, to include a licensed mental health professional, of each disciplinary action initiated by staff;

(3) Joint reviews by the program director, licensed mental health professionals, and the facility staff of discipline practices approved for use within the facility.

(b) A CTF shall provide placing agencies, children placed in a CTF, parents, conservators, or the person identified by the court to manage the placement with a copy of the facility's discipline practices upon admission.

(c) A CTF's discipline practices shall comply with the Title 22, California Code of Regulations, Division 6, Section 84072.1 which outlines the appropriate forms of discipline to be used within a licensed community care facility, except that no form of discipline shall deny the basic rights of a CTF resident delineated in Section 5325 of the Welfare and Institutions Code without following the procedures described in Section 1934 of this chapter and without establishing good cause for denial of the right as described in Section 1935 of this chapter.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code. Title 22, California Code of Regulations, Division 6, Sections 84072.1 and 84001d.(1).

Article 6 Personal Rights

Section 1931 Patient's Rights

(a) Any child admitted to a CTF shall be afforded the legal and civil rights as prescribed in Article 7, Sections 4095, 5325, 5325.1, 5325.2 and 5326 of the Welfare and Institutions Code. In addition, any child admitted to a CTF shall have the right to participate in daily outdoor activities, weather permitting.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1932 Notification of Rights

(a) The following shall remain posted in all wards and common living areas of a CTF:

(1) A list of the rights set forth in Sections 5325, 5325.1 and 5325.2 of the Welfare and Institutions Code;

(2) A statement that any child admitted to a CTF has the right to a hearing by writ of habeas corpus pursuant to Section 4095 of the Welfare and Institutions Code; and,

(3) The complaint procedure prescribed in Section 1933.

(b) Each child admitted to a CTF shall be personally notified of his rights in writing and in language he can understand, or shall have his rights brought to his attention by other means if he is unable to read or understand the information provided.

(c) A notation to the effect that notification, or an attempt to provide notification, has occurred shall be entered in the child's facility record within 24 hours of admission.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1933 Complaint Procedures

(a) The list of rights and resources that must be posted, provided or explained to the children in a CTF pursuant to Section 1932 shall contain:

(1) Notification that any child who believes a right of his has been abused, punitively withheld or unreasonably denied may file a complaint with the Department or the county patients' rights advocate;

(2) The human rights unit of the Department and the name of the county patients' rights advocate who has been assigned to handle such complaints and his telephone number.

(b) When a complaint is received by the county patients' rights advocate he shall, within two working days, take action to investigate and resolve it.

(c) If the complainant expresses dissatisfaction to the county patients' rights advocate with the action taken, the matter shall be referred, within five (5) working days, to the local mental health director if the complaint originated in the mental disabilities program or to the regional center director if the complaint originated in the developmental disabilities program.

(d) If the complaint cannot be satisfactorily resolved by the local mental health director within ten (10) working days, it shall be referred to the patients' rights specialist at the Department whose responsibility it shall be to resolve the complaint. Appeal of the resolution provided by the patients' rights specialist may be made to the Director of the Department, or his designee.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1934 Denial of Rights

(a) The rights listed in subsection (a) through (e) of Section 5325 of the Welfare and Institutions Code, and the right to participate in daily outdoor activities, weather permitting, may be denied a child in a CTF only upon the failure of all other means taken to resolve the behavior necessitating denial.

(b) Agreements and negotiations between the child, administrator and social worker shall be the primary means of resolving problems regarding the rights of the child.

(c) If a CTF, after complying with subsections (a) and (b) of this section, wishes to deny one or more of the rights delineated in subsection (a), the procedures outlined in Section 1935 must be followed.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1935 Good Cause for Denial of Rights

(a) The rights delineated in Subsection (a) of Section 1934 may be denied only for good cause. Good cause for denying a child a right exists when the professional person in charge of a CTF or his designee has good reason to believe:

(1) That the exercise of the specific right would be injurious to the child;

(2) That there is evidence that the specific right, if exercised, would seriously infringe on the rights of others;

(3) That the facility would suffer serious damage if the specific right is not denied;
and

(4) That there is no less restrictive way of protecting the interests specified in (1), (2), or (3).

(b) The reason used to justify the denial of a right to a child must be related to the specific right denied. A right shall not be withheld or denied as a punitive measure, nor shall a right be considered a privilege to be earned.

(c) Treatment modalities shall not include denial of any right specified in Section 1931. Waivers signed by the child, parent, conservator or person appointed by the court to manage the placement shall not be used as a basis for denying rights prescribed in Section 1931 in any treatment modality.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1936 Documentation of Denial of Rights.

(a) Each denial of a child's rights shall be noted in his facility record. Documentation shall take place immediately whenever a right has been denied. The notation shall include:

(1) Date and time the right was denied;

(2) Specific right denied;

(3) Good cause for denial of the right;

(4) Date of review if denial was extended beyond 30 days;

(5) Signature of the professional person in charge of the facility or his designee authorizing the denial of the right.

(b) The child shall be told the content of the notation.

(c) Each denial of a right shall be documented regardless of the gravity of the reason for the denial or the frequency with which a specific right is denied in a particular facility or to a particular child.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.

Section 1937 Restoration of Rights.

(a) A right shall not continue to be denied to a child when the good cause for its denial no longer exists. When a right has been denied, staff shall employ the least restrictive means of managing the behavior problem which led to the denial. The date a specific right is restored shall be documented in the child's facility record.

(b) A child who has been denied a patients' right shall have the good cause for this denial reviewed every five (5) days after the denial by a CTF mental health program director or his designee. This review shall result in either the restoration of the right to the child or continuation of the denial due to the determination that good cause for the denial of the right still exists. The results of the review will be documented in the child's facility record.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Section 4094.6 of the Welfare and Institutions Code.

Section 1938 Child and Family Involvement and Participation

(a) A CTF certificate holder shall ensure that, upon admission, the child, parent, conservator or person identified by the court to manage the placement receive typed copies of the following:

(1) Admission criteria;

(2) Continued stay criteria;

(3) Criteria or guidelines regarding the transfer of a child to and from secure and non-secure portions of the facility including an estimated duration of treatment in each;

(4) A copy of the child's due process rights and patient's rights handbook;

(5) Family visitation guidelines;

(6) A description of the facility's discipline practices;

(7) A copy of the facility's policies and procedures regarding physical restraint and seclusion.

(b) A CTF certificate holder shall ensure, to the maximum extent possible, the participation of the child, parent, conservator or person identified by the court to manage the placement in the discussion and planning of the child's NSP.

(1) Activities undertaken by the CTF staff to achieve this participation shall be documented and included in the child's NSP, monthly clinical review report and facility record.

(2) The child's parent, conservator or person identified by the court to manage the placement shall be informed of the services to be provided which are stated in the child's NSP, and their written approval of any modification of the NSP shall be received prior to its implementation.

NOTE: Authority Cited: Section 4094, Welfare and Institutions Code. Reference: Sections 4094 et seq. of the Welfare and Institutions Code and Section 1502 of the Health and Safety Code.